

Appl. No. 09/753,728  
Prel. Amdt. dated December 6, 2005

### REMARKS

Consideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

A. Status of the Claims and Explanation of Amendments

Claims 1-89 are pending, although claims 5, 19, 27, 41 and 49-87 have been withdrawn by way of Restriction. The prior September 9 final office action had rejected these claims. As to the merits, claims 1-4, 6-18, 20-26, 28-40, 42-44 and 88-89 were rejected pursuant to 35 U.S.C. §§ 102(e) or 103(a) over U.S. Patent No. 6,249,715 to Yuri et al. ("Yuri"). [9/9/05 Office Action at pp. 6-14].

In addition, three formal matters were raised by the office action. First, claims 23-26, 28-40 and 42-43 were rejected pursuant to 35 U.S.C. § 101 as allegedly being directed to non-patentable subject matter. [9/9/05 Office Action at p. 5]. Applicants respectfully traverse this rejection in light of the recent decision by the USPTO Board of Patent Appeals and Interferences, *Ex Parte Lundgren*, 2003-2005 (BPAI Sept. 28, 2005), which clarified the relevant law regarding Section 101 rejections. The *Lundgren* decision held that there is "no judicially recognized separate 'technological arts' test to determine patent eligible subject matter under § 101." [Slip Op. at 9]. Subsequently, the USPTO issued interim guidelines explaining Section 101 is satisfied where claimed invention otherwise produces a useful, concrete and tangible result. [Guidelines, p. 19]. Here, the office action already has conceded that these claims "recite a useful, concrete, and tangible result." [9/9/05 Office Action, p. 5]. Accordingly, the rejection is moot in light of the new guidelines.

Second, claims 1-4, 6-18, 20-21, 23-26, 28-40, 42-48 and 88-89 were rejected pursuant to 35 U.S.C. § 112 as allegedly being indefinite. [9/9/05 Office Action at p. 4]. The

Appl. No. 09/753,728  
Prel. Amdt. dated December 6, 2005

office action understands “work unit,” “work standards” and “composition targets” to be synonymous terms. The relevant claims are amended by this paper to universally recite “work units” and avoid “work standards” and “composition targets.” These amendments are not made for any substantial reason related to patentability (§§102 or 103), and are asserted to resolve the office action’s concern.

Third, claim 44 was objected to as allegedly not further limiting claim 23, from which it depends. [9/9/05 Office Action at p. 3]. Claim 44 is amended by this paper into independent form to expressly recite the steps of claim 23.

Withdrawal of the formal rejections and objections is respectfully requested.

B. Claims 1-4, 6-18, 20-26, 28-40, 42-44 and 88-89  
are Patentably Distinct From Yuri

The rejection of claims 1-4, 6-18, 20-26, 28-40, 42-44 and 88-89 are respectfully traversed. Each of independent claims 1, 22, 23 and 44 include division of the plurality of work units in accordance with the user-selected manufacturing condition and assignment of one group of the divided work units to a station. As explained below, this feature is shown in Yuri since all of Yuri’s work distribution steps are based on pre-determined formula and criteria, and are not based on user-selected manufacturing conditions.

Applicants’ claim 1 recites:

1. A work assignment system for assigning and composing a work formed from a plurality of work units to a plurality of stations, comprising:

display means for displaying names of the plurality of work units;

condition input means for inputting a user-selected manufacturing condition;

assignment means for dividing the plurality of work units in accordance with the user-selected manufacturing condition and assigning one group of the divided work units to a station; and

Appl. No. 09/753,728

Prel. Amdt. dated December 6, 2005

output means for outputting an assignment result of the work units of each station to a work assignment file as a composition plan.

Yuri is directed to a method and apparatus for optimizing work distribution. In Yuri's Figures 8 and 11, various steps of his work assignment method are shown schematically. Initially, the work groups are arranged "in a preferential order" in step S4. [Col. 11, lines 18-21]. Then in step S6, a predetermined formula is used to determine whether the distributed work "reach[es] the operation time value T per worker." [Col. 11, lines 41-50]. If not, an element work is further distributed in step S7 "in a preferential sequential order." [Col. 11, lines 57-60]. Thus, the method shown in Figure 8 does not involve a "user-selected manufacturing condition" as in the pending claims.

Figure 11 illustrates a series of steps executed when a station does not reach the operation time value per worker after execution of the steps of Figure 8. [Col. 11, lines 63-65]. In step S8, a pre-determined formula is used to shift work. [Col. 12, lines 1-12]. In step S11, additional conditions are applied to the distribution and the work rearranged accordingly. [Col. 12, line 51 – Col. 13, line 6]. In step S13, a distribution balance of the work is checked against another predetermined formula, and the work re-arranged as necessary. [Col. 13, lines 15-35].

Thus, each of Yuri's work distribution steps utilizes pre-determined formula and criteria, and Yuri's work distribution is not based on user-selected manufacturing conditions. Accordingly, Yuri fails to teach, disclose or suggest "assignment means for dividing the plurality of work units in accordance with the user-selected manufacturing condition" as recited in applicants' claim 1.

Appl. No. 09/753,728  
Prel. Amdt. dated December 6, 2005

Accordingly, at least independent claims 1, 22, 23 and 44, and their dependent claims 2-4, 6-18, 20-21, 24-26, 28-40, 42-43 and 88-89 are respectfully asserted to be in condition for allowance.

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicants have chosen not to swear behind Yuri, cited by the office action, at this time. Applicant, however, reserves the right, as provided for under 37 C.F.R. 1.131, to do so in the future as appropriate.

Finally, Applicants have not specifically addressed the rejections of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicant, however, reserves the right to address such rejections of the dependent claims in the future as appropriate.

Appl. No. 09/753,728  
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**CONCLUSION**

For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-4672.

Respectfully submitted,  
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Dated: December 6, 2005

By: \_\_\_\_\_

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